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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/460,836	12/14/1999	GUY A. COSMO	395-6	3014
75	90 01/15/2002			
THOMAS H GALGANO ESQ GALGANO & BURKE 300 RABRO DRIVE			EXAMINER	
			SIPOS, JOHN	
SUITE 135 HAUPPAUGE, NY 11788			ART UNIT	PAPER NUMBER
,			3721	·
			DATE MAILED: 01/15/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Application No. Application No. Application No. Application No. Application No. Examiner Art Unit John Sipos 3721				1 2 11 4/-)				
## Examiner Solar Sipos S721 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ③ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - See Talk (9) MORTHS from the resing date of this communication. It is period for pays periode solars is feath that the communication is the period for pays periode solars is feath that they period are apply and with early 100 (days and the period of the perio			Application No.	Applicant(s)				
John Sipos 3721	Office Action Summary		09/460,836	COSMO, GUY A.				
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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - after 5X: 69 MONTHS from the mailing date of risk communication. - if the period for epily specified above. The mailing date of risk communication. - if the period for epily specified above. The mailing date of risk communication. - if No period for righy is specified above. The mailing date of risk communication. - if No period for righy is specified above. The mailing date of risk communication. - if No period for righy is specified above. The mailing date of the specified will apply and the period of the period will apply and the period of the period of the period will apply and the period of the period of the period will apply and the period of the			I					
THE MAILING DATE OF THIS COMMUNICATION. - Extensions of mem raple available under the provision of 3° CPR 1.15(6). In no event, however, may a reply be timely field after SIX (6) MONTHS from the mailing date of this communication, and the provision of the prov								
2a) This action is FINAL. 2b This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-16 is/are pending in the application. 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) 9-16 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(e)	THE N - Exten after: - If the - If NO - Failur - Any re earne	MAILING DATE OF THIS COMMUNICATION. sions of time may be available under the provisions of 37 CFR 1.1 SIX (6) MONTHS from the mailing date of this communication. period for reply specified above is less than thirty (30) days, a reply period for reply is specified above, the maximum statutory period or to reply within the set or extended period for reply will, by statute apply received by the Office later than three months after the mailing	36(a). In no event, however, may a reply be ting within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONE	mely filed ys will be considered timely. the mailing date of this communication. ED (35 U.S.C. § 133).				
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3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) ☐ The translation of the foreign language provisional application has been received. 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) 1) ☒ Notice of References Cited (PTO-892) 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)		1.	s have been received.					
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	2) Notic	e of Draftsperson's Patent Drawing Review (PTO-948)	5) Notice of Informal					

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REJECTIONS OF CLAIMS BASED ON PRIOR ART

Claims 9 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the patent to Merritt (3,094,823) in view of Fiesser (5,475,964). The patent to Merritt shows a packaging machine with a feeder spool holding a folded packaging means, an inverting mechanism comprising of feed rollers 20,30 and V-shaped wires 50,51 that reposition and open the folded material so that the fold is in a vertical orientation and a sealing and severing means 55,56 downstream from the inverting mechanism comprising of a heated bar with a flat head and an opposing sealing surface with a sharp surface. The Merritt device lacks the specific type of sealer recited in the claims. The patent to Fiesser shows a packaging machine in which a tubular film containing articles is transversely sealed by opposing members wherein one is a heated flat bar 26 and a non-heated, sharp cutting surface 25 that provide a clean cut in the film. It would have been obvious to one skilled in the art to substitute the sealing mechanism of Fiesser for the sealing mechanism of Merritt to provide for a cleaner cut. The use of adjusting means (claim 14) to adjust the position of a well known mechanism would have been an obvious modification to one skilled in the art to permit the handling of different size articles.

Claims 10 and 11 are rejected under 35 U.S.C. '103(a) as being unpatentable over the patent to Merritt in view of Fiesser, as applied above, and further in view of Fukuda (5,347,795) or Goodwin (3,766,710). The Merritt and Fiesser combination lacks the showing of gear connected pivot arms. It would have been obvious to one skilled in the art to provide the sealing mechanism of Merritt with a supporting pivoting structure as shown by Fukuda or Goodwin so that a more synchronized operation of the sealing arms is achieved. In the case of Fukuda, the

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use of a piston instead of a motor to actuate the sealing arms would have been an obvious modification.

PRIOR ART

The patent to Berg shows a tubular film cutting and sealing means that comprises of heated elements on one side of the tube and a non-heated cutter on the other side of the tube.

RESPONSE TO APPLICANT'S ARGUMENTS

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number (703) 308-1882. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The FAX number for Group 3700 of the Patent and Trademark Office is (703) 305-3579.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703) 308-2187.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.

John Sipos

Primary Examiner